

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

RSA No.4131 of 2016 (O&M)

Date of decision: 16.08.2016

Suresh Kumar alias Neetu

-Appellant

Versus

Smt. Shakuntala Devi and others

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Naveen S. Bhardwaj, Advocate
for the appellant.

RAJ MOHAN SINGH, J. (ORAL)

[1]. Both the Courts have concurrently dismissed the suit of the plaintiff on the premise that Teh Bazari as claimed by the plaintiff could not be established on record with reference to any evidence.

[2]. Permission to sell some items on festive occasions was not sufficient to establish claim of the plaintiff to transact business on Reheri in the manner as claimed by the plaintiff. Plaintiff could not prove on record whether any licence was issued by the authority to operate his Reheri at the spot for the purposes of transacting business.

[3]. Admittedly, plaintiff used to operate in public place for which necessary licence is required. Courts have commented

upon the nature of business which is being transacted by the plaintiff viz-a-viz the land which vests in Municipal Corporation being a public property. No possession of individual can be presumed on public property by any stretch of imagination.

[4]. Having failed in both the Courts below, the plaintiff-appellant cannot be permitted to argue for re-appreciation of evidence. Since, there is no misreading of evidence by any of the Courts below, therefore, interference in Regular Second Appeal is not permitted.

[5]. At this stage, learned counsel for the appellant submits that in view of Act No.7 of 'The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014', he may be permitted to approach the concerned authorities for re-addressal of his claim in accordance with law. The decision of the present appeal is not dependent upon the rights of the plaintiff flowing from the aforesaid Act. In case claim is based on the basis of such Act, the authorities would be at liberty to decide the same in accordance with law.

(RAJ MOHAN SINGH)
JUDGE

August 16, 2016
prince

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No